

317.107

cancellation ceiling does not exceed 20 percent of the total contract value over the multi-year term or \$11.5 million, whichever is less. Cancellation ceiling provisions shall conform to the requirements of *FAR 17.106-1(c)*. The determination is not delegable and shall address the issues in *FAR 17.105-1(a)* and the following:

(1) The amount of, and basis for, the estimated cancellation ceiling.

(2) Identification and assignment of a Contracting Officer holding a FAC-C Level III certification or, alternatively, one familiar with the application of this contracting method.

(3) Availability of appropriations to fund the obligation of total contract costs for the first year of performance plus the estimated amount of the full cancellation ceiling.

(4) Reasonable expectation that, throughout the contemplated contract performance period, the OPDIV, through its annual budget request, will seek funding for the contract at the level necessary to avoid contract cancellation; and

(5) Program requirements are reasonably stable and the associated technical risks are not excessive—*i.e.*, not of the nature or level to jeopardize contract completion or result in its cancellation.

Upon SPE request, the HCA shall provide a copy of each determination (other than those specified in *317.105-1(b)* below).

(b)(1) SPE approval is required for any—

(i) Individual determination to use multi-year contracting with a cancellation ceiling in excess of the limits in *317.105-1(a)*; or

(ii) Class determination (see *FAR Subpart 1.7*).

(2) A determination involving a cancellation ceiling in excess of the limits in *317.105-1(a)* shall present a compelling justification for the estimated cancellation ceiling. When the estimated cancellation ceiling exceeds \$11.5 million, the determination shall be accompanied by a draft congressional notification letter pursuant to *FAR 17.108* and *317.108*.

(c) The funding required for performance of each year of a multi-year contract under *FAR Subpart 17.1* and this

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subpart must be provided in full at the start of that program year.

[74 FR 62398, Nov. 27, 2009, as amended at 75 FR 21511, Apr. 26, 2010]

317.107 Options.

When used as part of a multi-year contract, options shall not be used to extend the performance of the original requirement for non-severable services beyond 5 years. Options may serve as a means to acquire related services (severable or non-severable) and, upon being exercised, shall be funded from the then-current fiscal year's appropriation.

[75 FR 21511, Apr. 26, 2010]

317.108 Congressional notification.

(a) The SPE is the agency head for the purposes of *FAR 17.108(a)*. Upon SPE approval of the determination required by *317.105-1(b)(1)*, the SPE will finalize and sign the congressional notification letter and provide it to the appropriate House and Senate committees.

Subpart 317.2—Options

317.204 Contracts.

(e) The total of the basic and option periods shall not exceed 10 years in the case of services and the total of the basic and option quantities shall not exceed the requirement for 5 years in the case of supplies. These limitations do not apply to IT and R & D contracts. However, statutes applicable to various classes of contracts may place additional restrictions on the length of contracts.

317.207 Exercise of options.

(h) Before exercising an option for a subsequent performance period/additional quantity under a multiple-year contract/order—*see 339.201-70(c)*, which involves the acquisition of EIT products and services, including EIT deliverables such as electronic documents and reports, subject to Section 508 of the Rehabilitation Act of 1973, as amended, the Contracting Officer shall ensure that the contractor has provided to the Contracting Officer and Project Officer a properly completed HHS Section 508 Annual Report—*see*